IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 13.11.2017	Date of Pronouncing Judgment 05.12.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Appeal Nos. 715, 742, 750 and 756 of 2013
Criminal Appeal No.78 of 2014

1. R.Ramesh Srinivasan (A1) ... Appellants in Crl.A.No742/2013
2. N.Vinayaga Selvam (A2) ... Appellants in Crl.A.No: 78/2014
3. Chinna Durai (A4) ... Appellants in Crl.A.No:756/2013
4. B.Ramesh Chandran(A5) ... Appellants in Crl.A.No:750/2013
5. T.A. Noorjahant (A6) ... Appellants in Crl.A.No:715/2013

Versus

1. State Represented by
Inspector of Police,
SPE, CBI, ACB, Chennai.
(R.C.No. 8(E)/2002-CBI/EOW/Chennai) ... Respondents in Crl.A.Nos.742 & 756/2013
2. State Represented by
Inspector of Police,
SPE, CBI, Chennai ... Respondent in Crl.A.No.715 of 2013
3. The Inspector of Police,
CBI/EOW/Chennai. ... Respondent in Crl.A.No.750 of 2013

PRAYER

All the Criminal Appeals are filed under Section 374 (2) of Code of Criminal Procedure against the order of conviction dated 24.09.2013 in C.C.No.42 of 2003 passed by the learned XI Additional City Civil and Sessions Judge(CBI cases relating to Banks and Financial Institutions), Chennai-1.

For Appellant : Mr.R.John Sathyan
in Crl.A.No: 715 of 2013

For Appellant : Mr.L.P.Shanmuga Sundaram
Senior Counsel
for Mr.S.Anbalagan
in Crl.A.No: 742 of 2013

For Appellant : Mr. A. Venkataraman
Senior Counsel
for Mr.V.Krishna Kumar
in Crl.A.No: 750 of 2013

For Appellant : Mr. A. Ramesh, Senior Counsel
for Mr.S.Saravana Kumar
in Crl.A.No: 756 of 2013

For Appellant : Mr. K. Shanker
in Crl.A.No. 78 of 2014

For Respondents : Mr.K.Srinivasan
Special Public Prosecutor
for CBI cases (In all the cases)

COMMON JUDGMENT

These five appeals arise out of the Judgment passed in C.C.No: 42 of 2003 dated 24.09.2013 on the file of the XI Additional Sessions Judge, CBI, Chennai.

2. The appeals are rearranged as per the ranking of the appellants before the Trial Court for easy reference.

Crl.A.No:742/2013 is preferred by R. Ramesh Srinivasan (A1).
Crl.A.No:78/2014 is preferred by N. Vinayaga Selvam (A2).
Crl.A.No:756/2013 is preferred by S. Chinna Durai (A4).
Crl.A.No:750/2013 is preferred by B.Ramesh Chandran (A5).
Crl.A.No:715/2013 is preferred by T.A.NoorJahan (A6).

3. Factual back ground of these appeals

On 18.12.2002, CBI Chennai, registered the First Information Report based on the complaint received from K.P Anantha Krishnan, Chief Officer of UCO Bank, Regional Office wherein it was complained that fraud was committed by N. Vinayaga Selvam and N. Senthil kumar, Building Contractors, carrying on business in the name and style of "Sri Murugan Builders" at No:1 Azagar Murugan Street, Nagapattinam. According to the complainant, they have availed loan from UCO bank, Nagapattinam Branch for the purpose of executing Telecom Work, works allotted by Public Works Department and for purchase of Ashok Leyland Lorry. For the said loan Mrs. Jamruthi Beevi, wife of Raja Mohammad and Mr. G. Krishna Moorthy, stood as guarantors and deposited the title deed relating to the immovable properties and also created equitable mortgage in favour of the bank. The details of the loan availed from the Bank are as follows:-

(i) N. Vinayaga Selvam and N.Senthil Kumar, had availed cash credit loan to the extent of 33 lakhs.
(ii) Term Loan of working capital to the extent of 27 lakhs.

(iii) Vehicle loan for purchase of Ashok Leyland lorry for the sum of Rs.6 lakhs.

4. After sanctioning loan, it was found that the documents submitted by N.Vinayaga Selvam and N.Senthil Kumar for availing the loan are forged, fabricated and false. The Work orders produced by them are either forged or fabricated to show as if they have obtained contract from the Government Department. When the borrowers failed to re-pay the loan, the bank requested the Government Department to pay the amount directly to the bank, which is due and payable to Sri Murugan Builders. Thereafter, the bank has come to know that these Government Departments have never entered into any contract with “Sri Murugan Builders”. Thus, the bank has come to know that by producing forged, fabricated and false documents, the partners of Sri Murugan Builders have cheated the bank to the tune of Rs.73 lakhs, in connivance with bank officials namely Ramesh Srinivasan, the Manger of UCO Bank, Nagapattinam Branch, at the relevant point of time and guarantors Jamruthi Beevi and Dakshinamoorthy. The complaint was registered and taken up for investigation. The material collected during investigation is disclosed Ramesh Srinivasan, Branch Manager of UCO Bank, Vinayaga Selvam and Senthil kumar, partners of Sri Murugan Builders, Nagapattinam, Chinna Durai and Ramesh Chandran, who succeeded Ramesh Srinivansan as Branch Manager of Nagapittanam branch and T.A. NoorJahant who stood as guarantor for the loan have conspired together to cheat the UCO Bank at Nagapattinam Branch in the matter of sanctioning/recommending of credit facilities by cash credit, ad-hoc cash credit, demand loan, working capital term loan, road transport operators loan by way of submitting forged work orders in favour of Sri Murugan Builders, a partnership concern consisting of N.Vinayaga Selvam and N.Senthil Kumar. In the course of such transaction, Ramesh Srinivasan, Chinna Durai, Ramesh Chandran all Bank officials of UCO Bank, by abusing their Official position, have sanctioned and recommended credit facility to the firm floated by N. Vinayaga Selvam and N.Senthil Kumar by accepting forged and fabricated documents and extended loan to the tune of Rs.73 Lakhs thereby they have caused unlawful loss of Rs. 73 lakhs to UCO Bank and corresponding unlawful gain for themselves. Ramesh Srinivasan, Chinna Durai, Ramesh Chandran were arrayed as A1, A4, A5 being public servant, and were exclusively charged for offence punishable under Section 13 r/w 13(1)(d) besides for conspiracy along with private persons, T.A. NoorJahan (A6) had been implicated for impersonating herself as Jamruthi Beevi and produced property documents stood in the name of Jamruthi Beevi as collateral security thereby, she was charged for the offence under Section 420 I.P.C. Vinayaga Selvam and N.Senthil Kumar who were arrayed as A2 and A3 were charged for conspiracy, forgery, cheating, using forged documents as genuine for cheating.

Pending trial one of the partners of Sri Murugan Builders, N.Senthil Kumar turned as approver and pardon was granted to him. He was examined as one of the prosecution witnesses. Based on the final report filed by the investigation officer in the case, the trial Court framed 15 charges against the accused.

5. During trial, the prosecution has examined 30 witnesses and 938 Exhibits marked through them. On behalf of the accused, 6 documents were marked. The Court has examined one T.P. Reddy as Court witness and marked Ex.C1 through him. After appreciating the evidence let in by the prosecution witnesses, the trial court has found the accused persons guilty and convicted and sentenced them to undergo the following punishment.

6. (A-1) R.Ramesh Srinivasan, appellant in Crl.A.No.742 of 2013

I - Charge

Sentenced to undergo rigorous imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default to undergo six months simple imprisonment for offences u/s.120 B r/w 419, 420, 467, 468, 471 of I.P.C and u/s 13(2) r/w 13(1) (d) of PC Act.

IV-Charge

Three years rigorous imprisonment and to pay the fine amount of Rs.1,000/- in default to undergo six months simple imprisonment for offences under Section 13(2) r/w 13(1) (d) of PC Act.

V- Charge

Three years rigorous imprisonment and to pay the fine amount of Rs.1,000/- in default to undergo six months simple imprisonment for offences under Section 13(2) r/w 13(1) (d) of PC Act.

VI- Charge

Three years rigorous imprisonment and to pay the fine amount of Rs.1,000/- in default to undergo six months simple imprisonment for offences under Section 13(2) r/w 13(1) (d) of PC Act.

VII-Charge

Three years rigorous imprisonment and to pay the fine amount of Rs.1,000/- in default to undergo six months simple imprisonment for offences under Section 13(2) r/w 13(1) (d) of PC Act.

VIII - Charge

Three years rigorous imprisonment and to pay the fine amount of Rs.1,000/- in default to undergo six months simple imprisonment for offences under Section 13(2) r/w 13(1) (d) of PC Act.

IX-Charge

Three years rigorous imprisonment and to pay the fine amount of Rs.1,000/- in default to undergo six months simple imprisonment for offences under Section 13(2) r/w 13(1) (d) of PC Act.

7. (A-2) N.Vinayaga Selvam appellant in Crl.A.No. 78 of 2014

I-Charge Sentenced to undergo rigorous imprisonment for period of seven years and to pay the fine amount of Rs.8,85,000/- (Rupees Eight lakhs eighty five thousand only), in default to undergo three years simple imprisonment for the offences u/s. 120 B r/w 419, 420, 467, 468, 471 of I.P.C and u/s 13(2) r/w 13 (1) (d) of PC Act.

XI-Charge: Sentenced to undergo Rigorous Imprisonment for period of seven years (eight counts) and to pay the fine amount of Rs.8,85,000/-(Rupees Eight lakhs eighty five thousand only) for each counts, in default to undergo simple imprisonment for the period of three years for each counts for the offence u/s. 420 of IPC.

XII-Charge: Sentenced to undergo Rigorous Imprisonment for period of seven years (eight counts) and to pay the fine amount of Rs.8,85,000/-(Rupees Eight lakhs eighty five thousand only) for each counts, in default to undergo simple imprisonment for the period of three years for each count for the offence u/s. 467 of IPC.

XIII-Charge: Sentenced to undergo Rigorous Imprisonment for period of seven years (eight counts) and to pay the fine amount of Rs.8,85,000/-(Rupees Eight lakhs eighty five thousand only) for each counts, in default to undergo simple imprisonment for the period of (3) three years for each count for the offence u/s. 468 of IPC.

XIV-Charge: Sentenced to undergo Rigorous Imprisonment for period of seven years (eight counts) and to pay the fine amount of Rs.8,85,000/-(Rupees Eight lakhs eighty five thousand only) for each counts, in default to undergo simple imprisonment for the period of (3) three years for each count for the offence u/s. 471 of IPC.

XV-Charge: Sentenced to undergo Rigorous Imprisonment for period of seven years (eight counts) and to pay the fine amount of Rs.8,85,000/-(Rupees Eight lakhs eighty five thousand only) for each counts, in default to undergo simple imprisonment for the period of (3) three years for each count for the offence u/s. 419 of IPC.

8. N.Senthil Kumar who has arrayed as A-3 and who had turned approver was examined as P.W.27 by the prosecution and he has been deleted from the array of accused. However, the trial court after deleting his name has not changed the ranking of the accused. Hence, the original ranking given to them as per the charge being retained by the Trial Court, for the sake of convenience, to avoid confusion this court also retains the same ranking.

9. (A-4) Chinna durai appellant in Crl.A.No: 756 of 2013

I-Charge: Sentenced to undergo rigorous imprisonment for period of three years each to pay a fine of Rs.1000/- (Rupees one

thousand only) each, in default to undergo simple imprisonment for six months each for the offences under Section 120 B r/w Sections 419, 420, 467, 468, 471 of I.P.C and r/w Section 13(2) r/w 13(1)(d) of PC Act.
II-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for offences under Section 13(2) r/w 13(1) (d) of PC Act.

V-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for offences under Section 13(2) r/w 13(1) (d) of PC Act.
VII-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for offences under Section 13(2) r/w 13(1) (d) of PC Act.
VIII-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for offences under Section 13(2) r/w 13(1) (d) of PC Act.
X-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for offences under Section 13(2) r/w 13(1) (d) of PC Act.
10. (A-5) B.Ramesh Chandran appellant in Crl.A.No. 750/2013:
I-Charge: Sentenced to undergo three year rigorous imprisonment and to pay the fine amount of Rs.1000/- in default (6) six months simple imprisonment for offences under section.120 B r/w 419, 420, 467, 468, 471 IPC and u/s. 13(2) r/w 13 (1)(d) of PC Act.
II-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for the offences under Section 13(2) r/w 13(1) (d) of PC Act.
III-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for the offences under Section 13(2) r/w 13(1) (d) of PC Act.
VIII-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for the offences under Section 13(2) r/w 13(1) (d) of PC Act.

IX-Charge: Sentenced to undergo Rigorous Imprisonment for period of three years and to pay the fine amount of Rs.1000/- in default simple imprisonment for the period of (6) six months for the offences under Section 13(2) r/w 13(1) (d) of PC Act.

11. (A-6)T.A.Noorjahan appellant in C.C.No. 715 of 2013

I-Charge: Sentenced to undergo three years rigorous imprisonment and to pay a fine amount of Rs.1000/- in default six months rigorous imprisonment for offences under section 120 B r/w 419, 420, 467, 468 and 471 of PC read with under section 13(2) r/w 13 (1)(d) of PC Act.

XI Charge: Sentenced to undergo rigorous imprisonment for three years for each count and to pay a fine of Rs.1000/-(Rupees one thousand only) for each count, in default to undergo simple imprisonment for six months for each count for the offence under section 420 IPC (8 counts).

12. Thus from sentencing pattern of trial court we find that the public servants namely Ramesh Srinivasan (A1), S. Chinna Durai (A4), B.Ramesh Chandran (A5) were sentenced to undergo rigorous imprisonment for the period of three years and to pay the fine amount of Rs.1000/- for conspiracy and for substantial offence of misconduct as a public servant. So far as, private individuals are concerned one of the partner to the "Sri Murugan Builders" N.Vinayaga Selvam (A2) is sentenced to undergo seven years rigorous imprisonment and to pay the fine amount of Rs.8,85,000/- for conspiracy, cheating (eight counts), forgery of valuable security (eight counts), forgery for purpose of cheating (eight counts) using as genuine the forged documents (eight counts) and impersonation for purpose of cheating. The trial Court has ordered sentence to run concurrently and default sentence to run consecutively.

Aggrieved by the judgment of conviction and sentence each accused has filed separate appeals as stated above on various grounds. The submissions made by the each of the appellants are under:

13. A1-Ramesh Srinivisan appellant in Crl. Appeal No: 742/2013

The learned senior counsel appearing for this appellant would submit that the charges against the appellant is that as Manager of UCO Bank, Nagapattinam Branch abused his position as public servant and illegally recommended credit facility to partnership firm consisting of Vinayaga Selvam (A2) and N.Senthil Kumar (A3), recommended to sanction loan to Sri Murugan Builders and for availing of cash credit facility, adhoc facility to the said firm based on forged and fabricated work orders submitted by Vinayaga Selvam (A2) and N.Senthil Kumar (A3) without verifying the documents. He, as Branch Manager allowed over draft to the cash credit of Sri Murugan Builders operated by A2 and therefore he is guilty of conspiracy and exhibited misconduct as a public servant. The trial Court accepted the case of the prosecution against A-1 and it is against law and weight of evidence since, the appellant joined UCO bank at Nagapattinam Branch as its Manager on 07.10.1999. His predecessor Mr.Ramesh Chandran (A5) and Chinna Durai (A4) Assistant Manager have advanced the loan by exclusively over looking the documents submitted for loans. When the appellant took charge as Manager, Sri Murugan Builders was already a customer of UCO bank enjoying the cash credit limit of Rs.4 lakhs and working capital demand loan of a sum of Rs.6 lakhs. The account was opened during the tenure of (A5) Ramesh Chandran when he was Manager of the Bank and (A4) Chinna Durai, the Assistant Manager. While introduction of the customer verification of its business is a pre-condition for sanctioning the loan and it was done much prior to A1-Ramesh Srinivisan joining the branch. Therefore, alleging conspiracy with other accused to open an account in the name of Sri Murugan Builders and sanctioning loan is per se false. The collateral securities were furnished for the loan advanced to A2 firm was much prior to his joining the branch. A4 and A5 on satisfaction of the documents furnished by the borrower namely A2 had recommended for advancing loan on various heads, When this appellant took charge on 13.08.1999, the account of A2 was satisfactorily operated and regular in operation and they where honouring the commitment to the satisfaction of the bank. Since there was no negative features reported against the said firm, additional loan were recommended by this appellant. These facts were not properly appreciated by the Trial Court.

14. The learned senior counsel appearing for the appellant would further submit that Sri Murugan Builders, partnership firm, consisting A2 and PW.27 and they had opened account in UCO bank on 26.10.1998. The account opening form, specimen signature card along with photos of A2 and A3 are marked as Ex.P5, Ex.P6 respectively. Vinayaga Selvam (A2) has sought for cash credit facilities to the tune of Rs.4 lakhs vide letter dated 03.09.1998 which was marked as Ex.P11. During that period the appellant was not working in the said branch and therefore he cannot be charged for conspiracy along with the other accused when he never worked during that period. Similarly the work orders of Nagapattinam Municipalities, based on which loan facilities was extended by the bank are prior to the appellant joining the Nagapattinam branch. While so, after joining the Nagapattinam Branch as Manager on 07.10.1999, the overtact attributed to him in recommending sanction of additional loan for Rs.1.32 lakhs in the account Sri Murugan Builders for the purpose of remitting EMD against order granted by Tamil Nadu PWD Government Department, Thanjavur and dishonestly enclosing false report stating that he closely monitoring the account are unsustainable.

15. The specific allegation is based on his recommendation, credit facilities was sanctioned in favour of A2 firm and thereby he has committed offences under section 13(2) r/w section 13(1)(d) of Prevention of Corruption Act. Similarly the prosecution has alleged misconduct for forwarding a proposal to

Regional Office dated 17.02.2000 sanctioning ad-hoc cash credit of Rs.6 lakhs for 3 months over and above the sanction limit in the account of Sri Murugan Builders. When the proposal was pending consideration by Regional Office he along with Assistant Manager (A5) recommended term loan of Rs.6 lakhs into the account of A2 firm for purchase of Tractor without apprising the forged and fabricated work orders submitted by them and without proper verification further cash credit limit of Rs.4 lakhs was also enhanced to Rs.15 lakhs, demand loan enhanced from Rs.6 lakhs to Rs.9 lakhs and term loan of Rs. 6 lakhs for purchase of Tractor.

16. It is admitted by the prosecution witness PW.6 that Sri Murugan Builders is a Class I contractor and executing work for P.W.D. Under these circumstances, recommendation was made on the basis of the performance of the borrower and recommendation by Regional Office cannot be brushed aside. The proposal for granting loan was duly forwarded to Regional Office and only after receiving the orders from Regional Office loans were sanctioned. PW.931 is the communication of the Regional Office which will clearly indicate that the appellant had discharge its duties within the prescribed norms and he has not committed any misconduct in the course of discharge of his duties as public servant.

17. Relying upon the evidence of PW.28, who has admitted that Regional Office has permitted excess loan than recommended by Branch Office and Ex.P.103 and Ex.D6 process note returned by one Balachandar at Regional Office and relying upon the Ex.P.85, Ex.P.90, Ex.P.95 wherein, the Regional Office has intimated the Branch Office to sanction ad-hoc cash credit limit to Rs. 15 lakhs in favour of Sri Murugan Builders as a special case, it is contended that the discharge of Official function bonafide cannot be faulted just because the borrower turned to be defaulter due to some sudden struck of bad luck.

18. Apart from the factual contention, the counsel for the appellant also contended that the sanction for the prosecution is not accorded by person competent to remove A1 from service. The manner in which PW.27 sought pardon is contrary to procedure and illegal and his testimony has to be eschewed. The Trial Court without taking note of this legal infirmity proceeded against the accused persons to hold them guilty based on the evidence of approver. In support of the above said legal contention, the learned counsel for the appellants produced UCO Bank (Officer's) Services Regulations, 1979. Wherein, under Class 20 - Termination of Service, it is stated as under:

> 1. (a). The Bank may terminate services of an Officer on giving him three months' notice or

emoluments in lieu thereof in accordance with the guidance issued by the Government from time to time.

(b). Order of termination shall be made only after giving a reasonable opportunity to the Officer to make a representation to the bank against the proposed order.

(c). The decision to terminate the services of an Officer employee will be taken only by the Chairman & Managing Director.

(d). The Officer is entitled to appeal within 15 days to the Board to Directors of the Bank against such order

(e). If the Board decides to cancel his termination the emoluments paid to him in lieu of notice shall be adjusted against his salary.

(f). An Officer employee whose services are terminated, as above, shall be paid gratuity, PF and all other dues as may be admissible to him as per rules notwithstanding the years of service rendered.

(g). Nothing contained hereinabove; it will affect the Bank's right to retire an Officer employee under regulation 19(1).

19. According to the learned counsel for the appellant, under Class 20, service of an Officer can be terminated only by Chairman and Managing Director and the decision of the Chairman and Managing Director is subject to appeal within 15 days to the Board of Directors. PW.1 Mr.Uma Shankar Singh, who was the General Manager (operation) Calcutta is not competent person to remove the Officers of UCO Bank in Scale I to V. A1-Ramesh Srinivasan, Branch Manager is a Scale-II Officer and he can be removed only by Chairman and Managing Director and not by General Manager.

20. Regarding the granting of pardon to PW.27 who turned approver, the learned senior counsel contended that under section 306 of the Cr.P.C the person to whom pardon is tendered must be an accomplished before tendering pardon for which two condition has to be fulfilled and they are;-

(i) He must make full and true disclosure of whole of the circumstances within its knowledge and

(ii) He shall be detained in custody until termination of the Trial unless he has already on bail. He must have knowledge relating to the offences and to every other person is concerned whether as principal or abettor in the commission of offence.

(iii) The approver who arrayed as A3 and charged by prosecution initially denied the charge and sought to be tried thereafter he jumped bail and later secured and all of a sudden turned to be an approver. In his entire statement he has not said anything about his role in the crime his statement of exculpatory in nature One of the condition to grant pardon is that he must be an accomplice the crime and he should come forward to tell the full truth which were within its knowledge.

21. Reading of statement and deposition of PW.27, according to the learned Senior counsel for the appellant, he does implicate himself in the crime but only implicated his brother A2. In such circumstances, P.W.27 will not fall within the definition of approver, who is entitled to seek pardon.

22. (A-2)N. Vinayaga Selvam appellant in Crl.No: 78 of 2014

This appellant questions the legality of Trial Court Judgment on the ground that the evidence of approver examined as PW.27 are not to be relied upon though his brother and partner to Sri Murugan Builders have not stated a single line in the affidavit against him seeking pardon, during his testamentary before the trial court while so the court ought not to have relied upon the accomplice evidence who has turned approver after denying the charges framed against him and after many of the prosecution witnesses were examined. T.P. Reddy was examined as Court witness to elicit the enquiry conducted by the department in respect of loan advanced to Sri Murugan Builders.

23. The learned Counsel appearing for this appellant appealed that as young entrepreneur, the appellant had taken Government contract directly or as a sub-contract and he was prompt in his payment till certain calamity confronted him in his personal life which forced him to abscond and commit default. In any event if the court holds him guilty leniency may be shown regarding sentence.

24. (A-4) Chinna Durai appellant in Crl No: 756 of 2013

The learned Senior Counsel appearing for this appellant at the outset questioned the validity of sanction order passed by PW.1 and questioned his competence to issue the sanction order. Ex.P1, the sanction to prosecute Ramesh Srinivasan, (A1) and Chinna Durai (A4) was issued by General Manger Operation-II, UCO bank Head office Calcultta. The sanction order was dated 03.07.2003. Whereas, the final report filed by the Investigation Officer on 30.06.2003 prior to date of sanction. Further when offences under the Indian Penal Code is also framed against public servant, separate sanction under Section 197 of Cr.P.C for IPC Offence is required, whereas sanction order of Ex.P1 is only for the offence under Prevention of Corruption Act and not for offence under Indian Penal Code. When the allegation against the public servants namely the Bank official is that they have sanctioned loan to the borrower without obtaining sufficient documents, at the most, it could be only deflection of duty and falls within the meaning of failure to discharge Official duty. In such circumstances, public servant cannot be prosecuted for sanctioning loan to unworthy of credit persons. Further he pointed out UCO Bank Official Regulations Act, 1979, Class 20 and contented that PW.1 is not the competent authority to accord sanction. In addition, the learned counsel also submitted that this appellant had little role in sanctioning of loan to the A2 firm. CW.1 T.P.Reddy has deposed in his investigation that he did find any fault with the appellant Chinna Durai (A4), further the learned counsel contented that the manner in which N.Senthil Kumar, A3, after denying the charge and examined few of the prosecution witnesses all of a sudden in the midst of trial by filing an affidavit to grant pardon treated as approver is totally mysterious and contrary to law. When the investigation officer never thought that he need further evidence to establish the crime, how and why in the midst of the trial, after framing charge against the approver, the prosecution thought it fit to treat him as approver and sought pardon. The Judicial Magistrate ought not to have granted pardon.

25. While it is admitted by prosecution witnesses that the appellant has no administrative power to grant sanction, the Trial Court has erroneously held this appellant guilty for misconduct as well as conspiracy. The Trial Court has not given due consideration for the investigation report Ex.C1 submitted by C.W.1 T.P.Reddy when PW.3 has deposed that loan was sanctioned based on recommendation by Branch Manager. For preparation of process note, as per instruction of Branch Manager, the appellant working as Assistant Branch Manager cannot be found guilty. Neither the approver examined as PW.27 nor the Officer who conducted investigation examined as CW.1 has implicated the appellant in the alleged crime. Therefore the Trial Court ought to have acquitted the appellant however, without properly considering the evidence, the trial court has held this appellant guilty.

26. (A-5) Ramesh Chandran appellant in Crl.A.No: 750 of 2013

The learned counsel for this appellant submitted that this appellant retired on 06.10.1999, on the said date, the outstanding in the account of Sri Murugan Builders was only Rs. 4 lakhs, while so it was after six months of retirement the Regional Office sanctioned additional loan for nearly Rs.40 lakhs which was not paid by the borrower leading to internal investigation and criminal prosecution. The Temporary overdraft sanctioned by the appellant to Sri Murugan Builders was repaid on 26.06.1999 as per Ex.P8, while so, for the loan advanced subsequently and for not paying it subsequent to retirement of the appellant, he cannot be prosecuted. The compliant was lodged to CBI by K.P. Anantha Krishnan and he was examined as

PW.2. This appellant was not named as an accused in the compliant marked as Ex.P3. This fact is also admitted by PW.2 in his deposition whileso the conviction is liable to be set aside.

27. (A-6) T.A Noorjahan appellant in Crl.A.No: 715 of 2013

The learned counsel appearing for this appellant would submit that the charge against this appellant is that she has conspired along with other accused to impersonate herself and produced documents relating to her mother Jamruthi Beevi and impersonated herself as Jamruthi Beevi. A perusal of encumbrance certificates and title deed would reveal that those documents stood in the name Jamruthi Beevi and alleged that it was produced by this appellant by impersonating herself. The prosecution has arrayed her as the accused but had not succeeded before the trial Court in proving the charge against her. The trial Court relying upon the evidence of Court witnesses T.P.Reddy has erroneously held the appellant guilty of an offences under Section 120 B r/w Section 419, 420, 467, 468, 471, IPC and Section 13(2) r/w 13(1) (d) of IPC Act and under Section 420 of I.P.C (eight counts) along with A2 just because the daughter of A6 had married A2. The prosecution has impleaded this appellant in the crime to secure the presence of A2 who was absconding at the time of investigation.

28. Response by the Special Public Prosecutor

The learned Special Public Prosecutor representing the CBI would submit that there is no legal or factual error in according sanction to prosecute A1 and A4. Drawing attention of this court to Conduct and Discipline & Appeal Regulations, 1976 of UCO Bank, the learned Public Prosecutor submitted that the Service Regulation referred by the counsel for appellant is in respect of termination of service in normal circumstances. Wherein either the Officer or the Management under Class 20, of UCO Bank, Service Regulation Act, 1979 can terminate the service. However, Clause 20 (3) in the service Regulation, specifically states that when there is any disciplinary proceedings pending, such Officer shall not be allowed to leave/discontinue or resign from his service in the Bank and it shall take effect only after it is accepted by the Competent Authority. Thus, UCO Bank Service Regulation 1979 is subject to discipline and Conduct Regulation, 1976.

29. In this regard, the learned Special Public Prosecutor would submit that under the disciplinary Appeal Regulation; the disciplinary authority means the authority specified in the schedule who is competent to impose on the officer employee any of the penalties specified in the Regulation-IV which prescribes penalty under two head namely minor and major penalty. Under major penalty; punishment includes postponement of increment with cumulative effect, reduction to lower scale in the time scale effect for a specified period, reduction to lower grade or post, compulsory retirement removal and dismissal are specified.

30. The Managing Director or Executive Director or any other authority empowered by either of them by General Order or special order may institute or direct the disciplinary authority to issue disciplinary proceedings against the Officer employee of the bank. Thus General authorisation has been issued to the General Manager (Personal) Department, Head Office to take disciplinary action and authority for according sanction to prosecute under Provision of Corruption Act. In support of this submission order of the UCO Bank, dated 11.09.2004: is relied wherein, after reorganisation of Bank administration set up, the General Manager of Calcutta, Mumbai, New Delhi were conferred authority to accord sanction for prosecution in their respective jurisdiction in case of sanction sought by Police/CBI under Prevention of Corruption Act. For better understanding, the Regulations referred by the counsels are extracted:

31. UCO Bank (Officer's) Services Regulations, 1979: Wherein, under title Termination of Service clause 20 reads as under:

> (20) 1. (a). The Bank may terminate services of an Officer on giving him three months' notice or emoluments in lieu thereof in accordance with the guidance issued by the Government from time to time.
>
> (b). Order of termination shall be made only after giving a reasonable opportunity to the Officer to make a representation to the bank against the proposed order.
>
> (c). The decision to terminate the services of an Officer employee will be taken only by the Chairman & Managing Director.
>
> (d). The Officer is entitled to appeal within 15 days to the Board to Directors of the Bank against such order.
>
> (e). If the Board decides to cancel his termination the emoluments paid to him in lieu of notice shall be adjusted against his salary.
>
> (f). An Officer employee whose services are terminated, as above, shall be paid gratuity, PF and all other dues as may be admissible to him as per rules notwithstanding the years of service rendered.
>
> (g). Nothing contained hereinabove; it will affect the Bank's right to retire an Officer employee under regulation 19(1).

32. Conduct and Discipline & Appeal Regulations, 1976:

(4)Penalties:

> The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons:-
>
> Minor Penalties:
>
> (a) Censure;
>
> (b) withholding of increments of pay with or

without cumulative effect;

(c) withholding of promotion;

(d) recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the bank by negligence or breach of orders.

(e) reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting the officer's pension.

Major Penalties;

(f) save as provided for in (e) above reduction to a lower stage in the time-scale of pay for a specified period. with further directions as to whether or not the officer will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay.

(g) reduction to a lower grade or post,

(h) compulsory retirement;

(i) removal from service which shall not a disqualification for future employment;

(j) dismissal which shall ordinarily be a disqualification for future employment.

Regulation-5
Authority to institute disciplinary proceedings and impose penalties:

(1) The Managing Director or the Executive Director or any other authority empowered by either of them by general or special order may institute or direct the Disciplinary Authority to institute disciplinary proceedings against an officer employee of the bank.

(2) The Disciplinary Authority may himself institute disciplinary proceedings.

(3) The Disciplinary Authority or any authority higher than it, may impose any of the penalties specified in regulation 4 on any officer employee.

33. The Order of UCO Bank, dated on 11.09.2004

Whereas u/s 19(1)(c) of the Prevention of Corruption Act, 1988 the authority competent to sanction prosecution in the case of the public servant other than State and Central Government employees, is the authority who is Competent to remove such public servant from service.

Whereas the General Manager, Personnel Department (Head Office) and the General Managers of Operations-I, II and III Head office are already empowered to accord sanction for prosecution against the Officers/Award staff posted in the Officers/Branches under their respective jurisdiction.

Whereas due to reorganisation of Bank's administrative set-up, Kolkota, Mumbai and New Delhi Regions are now headed by the Executives in the rank of General Managers.

It has now been decided to empower the General Managers of Kolkota, Mumbai and New Delhi Regions to exercise the authority of according sanction for prosecution against the Officers/Award staff under their respective jurisdiction.

Therefore, the undersigned hereby empowers the General Managers, Kolkota, Mumbai and New Delhi Regions to exercise the authority of according sanction for prosecution against the Officers/Award staff posted in the Branches/Offices under their respective jurisdiction, in the case such sanction is sought by the Police/CBI under Prevention of Corruption Act, 1988.

34. On scrutiny of these Provisions it is very clear that UCO Bank Officers Services Regulation Act 1979, is subject to the UCO Conduct and Disciplinary Appeal Regulation, 1976. Preciously and that is why, while dealing with termination of service, under Regulation (20) of Service Regulation Act, 1979 Sub-Clause(3) restricts its applicants subject to conclusion of disciplinary proceedings. The Disciplinary Appeal Regulation Act, 1976 is the Regulation which governs removal of Officer Employee whereas UCO Bank Service Regulation,1979 is regarding termination of Service. Sanction to prosecute has to be accorded by person competent to remove any officer from service. Therefore Regulation 5 of Conduct and disciplinary and Appeal Regulations Act, 1976 is the appropriate statue to be look into. While so a combined reading of Regulation 5 and the order passed by the UCO Bank on 11.09.2004 as extracted above clearly proves that PW.1, as a General Manager, Operations, Calcutta is wholly competent to accord sanction to prosecute A4 and A6. Hence, the contention raised by the counsel for the appellant appearing for A4 and A6 does not carry any merit.

35. Regarding the next attack on the prosecution case is the manner in which pardon was granted to N.Senthil Kumar. (PW. 27) Originally he was arrayed as A3 later declared as approver on 15.11.2006 as per the order in Crl.M.P No. 91 of 2006 by the Trial Court under Section 307 Cr.P.C r/w 5 of PC Act, 1988. Section 5 of Prevention of Corruption Act empowers special Judge, with a view to obtain evidence of any person, supposed to have directly or indirectly concerned or privy to an offence to tender pardon to such person on condition of his making a full and true disclosure of the whole circumstances within its knowledge relating to the offence and to every other persons concerned, whether the Principal or abettor, in the commission thereof and any pardon so tendered shall, for purpose of sub section 1 to 5 of Section 308 of Cr.P.C deem to have been tendered under Section 307 of the Code.

36. Section 307 of the code empowers the court to tender pardon to any person having knowledge of the crime and conversant to the facts any time after commencement of trial but before judgment. Hence when A3, after denying the charge framed against him, in the course of the trial, thought it fit to admit his role in the crime and sought for pardon and it was also granted by the trial court. There is no illegality in granting such pardon. It is left to the discretion to the court to tender pardon before judgment if the court is satisfied that the person who seeks pardon undertakes to disclose the truth in full and fact which are within his knowledge incriminating himself and other persons privy to crime. As far the time of granting pardon and the excise of discretion, it is vested with the trial court of granting pardon and there is no illegality on the part of the Trial judge to grant sanction for an accused persons, who has neither disclosed the truth in full nor honoured his promise by filing an affidavit that he will disclose whole truth within his knowledge. In such event it is open to the trial Court to see under Section 308 for breach of condition imposed at the time of granting pardon. In any event the evidence of accomplish cannot be treated on par with evidence of independent witness. It has to be viewed with suspicion and to be supported by impeachable corroboration. If that test is applied to the evidence of PW.27, and this court finds that evidence of PW.27 is unworthy for consideration after ignoring evidence of PW.27, this court can look at other prosecution evidence to find whether the charges against this appellants are proved as held by the Trial Court.

37. The crux of the prosecution case is that Vinayaga Selvam (A2) and N.Senthil Kumar, originally A3, later arrayed as PW.27, opened current account No.385 at UCO Bank Nagapattinam Branch in the name of M/s.Sri Murugan Builders on 26.10.1998. At that point of time B. Ramesh Chandran (A5) was the Branch Manager and he has signed in the account opening form overriding the introduction given by E.Katha Muthu, holder of SBI Account No: 7570. A5 has done this because E. Katha Muthu's account was inoperative. An inoperative account holder cannot introduce another customer therefore he has struck out the introduction made by E.Katha Muthu and he himself, as Branch Manager, signed as introducer for opening this account. After this, on 08.02.1999, Vinayaga Selvam has applied for temporary overdraft of Rs.4 lakhs for a period of Rs.1 lakh to meet its working capital requirement for which he has offered property in the name of Dakshinamoorthy as collateral security. He has furnished work order issued in the name of N.Senthil Kumar for construction of road worth Rs.25 lakhs awarded by Nagapattinam Municipality. A4 Chinna Durai, as Assistant Manager (Advance) and A5 Ramesh Chandran, Manager of the Bank has processed the said loan proposal and forwarded the same to the Regional Office, Trichy with favourable recommendation. Based on the recommendation dated 11.02.1999, Regional Office has sanctioned cash credit of Rs.4 lakhs. The work order furnished by A2 is not a genuine work order but a fabricated document. The Commissioner Nagapattinam, Municipality had issued work order for one N.Senthil Kumar, residing at 16, Dharmapuramada South Land, Nagapattinam and not to Sri Murugan Builders which has been fabricated by A2. A5 and A4, who supposed to verify the genuineness of the work orders furnished by A2 failed to do so by abusing his official position for corrupt or illegal means. He has accepted the fabricated document without making any mandatory enquiry with Nagapattinam Municipality. Further A5 vide letter dated 10.03.1993 has also reported to the Regional Office as if those two work orders issued by Nagapattianam Municipality is being carried by the A2 firm. PW.13, Kather Mohideen, Municipal Engineer in Nagapattianam Municipality has spoken about the Municipal Council Resolution, the Agendas dated 09.10.1998, 21.05.1998 and identified the certified copy of the Agendas marked as Ex.P869. The contract pertaining to laying of cement concrete road at Dharmapuram Mada Street at an estimated cost of Rs.1 lakh to N.Senthil Kumar has been awarded. As per Ex.P869, on 21.05.1998 a contract pertaining to laying of B.T. Road at Velipalayam Mariamman Koil Street at an estimate cost of Rs.2.5 lakhs was awarded to N.Senthil Kumar. None of the work orders by Nagapattinam Municipality was issued to Sri Murugan Builders as referred in Ex.P12. Taking advantage of the fact that the name of one of the partners of Sri Murugan Builders is N.Senthil Kumar, (A3) they have manipulated the work order issued to N.Senthil Kumar, an individual, as work order issued

to M/s. Sri Murugan Builders represented by N.Senthil Kumar. They thought both are entirely different person. Thus Ex.P.12, work order issued to N.Senthil Kumar for Rs.1,60,000/- has been altered as work order to Sri Murugan Builders N.Senthil Kumar for Rs.4,60,000/-. This forged work order Exhibited as Ex.P.12 and spoken to by PW.13. Similarly Ex.P13 work order issued in the name of Sri Murugan Builders and N.Senthil Kumar also been identified by the witness as a fabricated documents with alteration of amount and ROC.No:E1/6952/98. Similarly, Ex. P.14, the work order with an estimated value Rs. 1 lakh as per the Municipality record had altered as Rs.4 lakhs, Ex.P.15 the work order dated 26.12.1998 in the name of N.Senthil Kumar Rs.2,50,000/- had been altered as work order to Sri Murugan Builders and N.Senthil Kumar for a sum of Rs.12,50,000/-. Thus this witness PW.13 has identified Ex.P12 to Ex.P15 as fabricated work orders by inserting the name of the contractor as Sri Murugan Builders along with N.Senthil Kumar though the work order was issued.

38. N.Senthil Kumar as individual has nothing to do with Sri Murugan Builders. Further the estimation value also be inflated by altering the value while advancing loan. PW.4 and PW.5 are supposed to have looked into the genuineness of the work order but carelessly overlooked the manipulation. It is also found during the investigation that on 21.06.1999 A2 Vinayaga Selvam has sought for additional Rs.6 lakhs for executing work order worthy of Rs.17,79,631/- for construction of 32 bedded maternity ward at Government Taluk Hospital, Pattukottai. He has furnished the forged work order purported to have been issued by Superintending Engineer, PWD, Building (Construction and Maintenance), Thanjavur and for the said work he has offered the property of one Jamruthi Beevi alleged to be worth Rs.10,56,128.40/- as additional collateral security for sanctioning the proposed loan. A5 had prepared the proposal and forwarded it to Regional office on 23.06.1999 and recommended for sanctioning of the loan. The Regional Office, accepting the recommendation, has sanctioned Rs.6 lakhs as additional loan on 03.09.1999. A5 has filed personal report confirming that he inspected the property in the name of Jamruthi Beevi and found she has perfect title and the properties were compared without actually conducting any personal inspection to the property. A5 has certified that the valuation of the property is worth Rs.1.30 crores and the certification given by Village Administrative Officer regarding its value is acceptable. Thus without any verification, A5 has certified that Public Works Department has given a contract to A2 for constructing hospital at an estimation cost of Rs.87 lakhs for which the property given as collateral security is worth Rs.1.3 crores and it

stands in the name of Jamruthi Beevi, thereby mislead the Regional Office to accord sanction for additional loan of Rs. 6 lakhs into the account of A2.

39. The actual work order for construction of 32 bedded maternity ward at Government Taluk Office, Puddukottai was for the estimated value of Rs.17,79,631/- and not Rs.87,79,671/- A2 has forged it by altering 1 into 8 and by furnishing the document of R.Jamruthi Beevi to create equitable mortgage of that property as collateral security. The said Jamruthi Beevi died as early as 10.07.1986. Therefore, A2 has arranged T.A.NoorJahant (A6) the daughter of Jamurthi Beevi to impersonate as R.Jamruthi Beevi to forge her signature and dishonestly and fraudulently to cheat the bank. He has created equitable mortgage of the property stood in the name of the Jamruthi Beevi but pretending A-6 T.A.NoorJahant as R.Jamruthi Beevi to create said equitable mortgage. Likewise, while availing adhoc cash credit facility to the tune of Rs.1.32 lakhs for the purpose of remitting EMD against the tenders floated by the Executive Engineer, Thanjavur BDO Office Keelaiyur Panchayat Union Ramesh Sriniviasan (A1) has forwarded the loan proposal with favourable recommendations to the Regional Office. The Regional Office refused to sanction the adhoc cash credit since the cash credit limits given to A2 has already exceeded and to verify the utility of the cash credit limit for the purpose it was granted. A1 has replied to the Regional Office stating that the Branch is closely monitoring A2 N.Vinayagaselvam and recommended to release adhoc cash credit in favour of Sri Murugan Builders. With similar modus operandi A2 had availed adhoc cash credit of Rs.6 lakhs for three months over and above the already sanctioned amount to execute the work order for construction of Government Hospital Phase-II, Pattukottai for Rs.92 lakhs and Sub Registrar's Office and Multiple purpose Office complex at Peravurani for Rs. 40 lakhs (Forty lakhs) purportedly awarded by the Superintending Engineer, PWD, Building Construction Maintenance Division, Thanjavur. The work order produced by A2 were forged one and based on it, he also sought for a term loan of Rs.6 lakhs for purchase of Ashok Leyland Truck, which was favourably recommended by A1 and A4 to the Regional Office, Trichy. Based on their favourable recommendations Regional Office has also enhanced the cash credit limit of Rs.4 lakhs to Rs.15 lakhs, demand loan of Rs.6 lakhs to Rs.9 lakhs and term loan of Rs. 6 lakhs for purchase of Ashok Leyland Tractor.

40. For all these loans above, work orders produced by A2 were all found to be forged and fabricated. This has been clearly spoken through PW.13 and PW.19 and PW.27 N.Senthil Kumar who is the real contractor for Municipality and PWD.

41. Similarly, the loan availed by the accused by showing BSNL contract has also found to be based on forged documents and it was spoken through the evidence of PW.20 and PW.21 who had confirmed that the work order of Ex.P.126, Ex.P.127 pertaining to cable duct work at Thiruvenkadu was not issued to Sri Murugan Builders at Nagapattinam and they are not registered contractor with BSNL.

42. PW.22 E.Sivalingam who is the Regional Manager of UCO Bank, Trichy at the relevant point of time had narrated in its deposition about the duty of a Manager as well as the Assistant Manager while advancing loan. First and foremost, while advancing the loan to any contractor or sub contractor, the genuineness of the work order has to be verified by the Branch Manager and primary security of the stocks has to be verified and the Bank Manager should obtain monthly stocks statement from the borrower. Further, the reputation of the guarantors financial record, audited balance sheet, Income tax returns, inspection of the properties physically by the Bank officials, legal opinion and valuation report from approved lawyer and valuer are all should be obtained and verified. In this case, A1, as Branch Manager and A4 as Assistant Branch Manager had prepared proposal for loans and additional loans, enhanced loan based on various work contract and has positively recommended for sanction of loan, whereas work orders produced by A2 are either forged or fabricated or both. Thus based on the proposals prepared and recommended by A1 and A4, cash credit limit has been enhanced to Rs.33 lakhs WCL loan of Rs.7 lakhs (Seven lakhs) was enhanced to Rs.27 lakhs (Twenty Seven lakhs) as a result, a sum of Rs.73 lakhs was advanced to A2 under various heads which are unrealisable thereby causing wrongful loss to the bank and proportional wrongful gain to accused persons.

43. The contention of the counsel appearing for A5 is that he retired during the month of August 1999 and on that day overdue has not exceeded to Rs.4 lakhs therefore for the loss of Rs.73 lakhs he cannot be held liable. However this court is not convinced by the said submission for the simple reason that intention to cheat the bank found to be in the mind of the perpetrator of crime right from the inspection of opening the account. A5 introduced A2 Sri Murugan Builder to open the account. The extra interest show by him to open the account, recommending for cash credit loan over Rs.6 lakhs when credit

worthiness of A2 firm was superfluous, prove his culpability so he cannot wriggle out them in the chain of conspiracy, by saying that he is not privy to the crime. He was the key to introduce or push this bad customer to the bank. A1, A4 and A5 had at no point of time verified with the Municipal corporation at Nagapattinam, PWD Thanjavur or BSNL Thanjavur whose work order being relied by A2 for availing loan from the bank. The Regulations for the bank categorically states that before granting loan there must be an undertaking from the person who has given contract that in case loan is not repaid by the contractor or the beneficiary of the contract, they will pay the contract amount directly to the bank. Whereas, in this case A1, A4, A5 has not obtained such undertaking. At least they should have shown some diligence to verify whether the work orders are genuine or not but even that effort is not taken by them. Merely based on some documents, the bank officials had advanced loan without following any of the mandate prescribed for them before advancing loan. Such callous attitude cannot be rated as mere lapse in discharging of official duties.

44. The Trial Court had extensively gone into the evidence of PW.12, R.Thangaprakasam, who has categorically denied the letter dated 22.10.1999 purported to have been issued by PWD in favour of Sri Murugan Builders. PW.13, M.Kader Mohideen has identified the work orders purported to have been given by the Municipalities and produced by A2 to the bank marked as Ex.P12, Ex.P13, Ex.P14 are not the work orders issued by Nagapattinam Municipality. PW19 N.Senthil Kumar has also corroborated the version of PW.13 that work orders issued to him has been fabricated and Ex.P.12 to Ex.P15 are those fabricated work orders as if it is issued to Sri Murugan Builder and N.Senthil Kumar by inflating the amount. Similarly, PW.20 and PW.21 have identified the forged work orders purported to have been issued by BSNL. PW.22, E.Sivalingam and PW.23 K.Santhanam who were the Regional Manager of UCO Bank have explained the procedure for advancing loan. In this case Bank Manager (A1 and A5) and Assistant Bank Manager (A4) have failed to follow the procedures in order to help A2 to avail loan on different pretext based on forged documents.

45. Therefore the guilty of A1, A2, A4 and A5 is well found through prosecution evidence, as far as A6 T.A. Noor Jahant is concerned, specific allegation against her is that she impersonated and forged signature of Jamruthi Beevi and by forging the property of Jamruthi Beevi for pecuniary gain. To prove this charge prosecution has examined PW.10 to PW.12.

46. PW.9, Indirani a retired Sub Registrar, who, after verifying the official records has said that Ex.P195 was not issued by Registrar Office Valangaiman, Thiruvarur District. Ex.P.197 and Ex.P.198 which were purported to have been issued

by Registrar Office, Valangiman are forged documents.

47. PW.10, Mangaiyarkarasi, Sub Registrar, Magaranonbu Chavadi, Thanjavur has also deposed to the effect that, Registrar Office Seal, found in Ex.P174, Ex.P175, Ex.P180, Ex.P183, Ex.P184, Ex.P185, encumbrance certificates dated 02.07.1999, 22.08.2000, 02.07.1999 are all forged documents and not issued by the Sub Registrar Office, Magaranonbu Chavadi Thanjavur.

48. PW.11, A.Nagappan has deposed that Ex.189, Ex.190 encumbrance certificates were not genuine and they are not issued by Sub-Registrar Office of Tharunthattankudi, Thanjavur. PW.15 G.Kaliaraj, VAO Keerakollai Village, Thanjavur has denied the certificates marked as Ex.181, Ex.186 which were issued from his Office and signature and seal found therein does not belong to him or his Office. Similarly, PW.16 S.Krishnan, VAO, Soorakkottai Village, PW.17, M.Subbaiyan, VAO Pulianthoppu Village, Thanjavur have also denied the genuineness of Ex.P176 to Ex.P179 and Ex.P182 respectively.

49. Thus, it is very clear that A2 and the approver PW-27 had produced forged encumbrance certificates for the property shown as collateral security but however, in so far as charge against A6 is concerned the charge against her that she impersonated herself and forged the signature of Jamruthi Beevi, this Count finds no material evidence placed by the prosecution to link her to the said crime.

50. Though the prosecution has taken efforts to send the signature of Jamruthi Beevi found in the documents produced as collateral security, there is no positive evidence from the handwriting expert in this regard. No doubt Jamruthi Beevi died in the year 1986 itself so somebody had impersonated herself as Jamruthi Beevi to create equitable mortgage on her property in favour of UCO Bank to advance loan to Sri Murugan Builders, but it is not sure whether that somebody is A6 T.A.NoorJahant. Therefore, without any evidence to link the crime with A6 T.A.NoorJahant, it may not be appropriate to hold her guilty of cheating.

51. It is to be noted that no charge of impersonation is framed against A6. The Charge for impersonation is only framed against A2 and it is rightly so, as he is the beneficiary of the crime and he has produced somebody as Jamruthi Beevi for creating equitable mortgage of her property. Except the fact that NoorJahant being the legal heirs of Jamruthi Beevi, there is no other link to fasten criminality on her for cheating. Therefore, for want of evidence A-6 NoorJahant is liable to be

acquitted. The Trial Court judgment, as far as A6 T.A. NoorJahant is concerned, is to be set aside.

52. In the result, the conviction and sentence passed by the XI Additional City Civil & Sessions Judge for CBI Cases(CBI Cases relating to Banks and financial institutions) Chennai, in C.C.No. 42 of 2013 dated 24.09.2013 are hereby set aside and the Criminal Appeal No: 715 of 2013 is allowed. Fine amount if any paid by the appellant shall be refunded to her. Bail Bond if any executed shall stands cancelled. The appellant is acquitted of the charges levelled against her and she is directed to be set at liberty forthwith unless her presence is required in connection with any other case.

53. Taking note of the above fact, this Court, while confirming the finding of the conviction arrived at by the trial Court, viz., XI Additional City Civil & Sessions Judge(CBI Cases Relating to Banks and Financial Institutions), Chennai in C.C.No.42 of 2003 dated 24.09.2013, modifies the sentence as follows:

Rank of the Accused	Conviction under Section	Sentence imposed by the trial Court	Sentence modified by this Court
A1,A4,A5	120B r/w 419, 420, 467, 468, 471.IPC and u/s 13(2)r/w 13(1)(d) of PC Act, 1988	To undergo RI for 3 years each	To undergo RI for one year each
A2	120B r/w 419, 420, 467, 468, 471.IPC and u/s 13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 7 years and to pay a fine of Rs.8,85,000/-	To undergo RI for 2 years and to pay a fine of Rs.1,00,000/-.
A4 & A5	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years each	To undergo RI for one year each
A5	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years	To undergo one year RI
A1	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years	To undergo one year RI

Rank of the Accused	Conviction under Section	Sentence imposed by the trial Court	Sentence modified by this Court
A1 & A4	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years each	To undergo one year RI each
A1	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years	To undergo one year RI
A1 & A4	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years each	To undergo one year RI each
A1,A4& A5	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years each	To undergo one year RI each
A1 & A5	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years each	To undergo one year RI each
A4	13(2) r/w 13(1) (d) of PC Act, 1988	To undergo RI for 3 years	To undergo one year RI
A2	420 IPC(8 counts)	To undergo RI for 7 years for each count and to pay a fine of Rs.8,85,000/- for each count	To undergo 2 years RI for each count and to pay a fine of Rs.1,00,000/- for each count
A6	420 IPC (8 counts)	To undergo RI for 3 years for each count and to pay a fine of Rs.1000/- for each count	To undergo one year RI for each count
A2	467 IPC (8 counts)	To undergo RI for 7 years for each count and to pay a fine of Rs.8,85,000/- for each count	To undergo 2 years RI for each count and to pay a fine of Rs.1,00,000/- for each count

Rank of the Accused	Conviction under Section	Sentence imposed by the trial Court	Sentence modified by this Court
A2	468 IPC (8 counts)	To undergo RI for 7 years for each count and to pay a fine of Rs.8,85,000/- for each count	To undergo 2 years RI for each count and to pay a fine of Rs.1,00,000/- for each count
A2	471 IPC (8 counts)	To undergo RI for 7 years for each count and to pay a fine of Rs.8,85,000/- for each count	To undergo 2 years RI for each count and to pay a fine of Rs.1,00,000/- for each count.
A2	419 IPC	To undergo RI for 7 years and to pay a fine of Rs.8,85,000/-	To undergo 2 years RI and to pay a fine of Rs.1,00,000/-.

54. With the above modification, the Criminal Appeal Nos.742, 750, 756 of 2013 and 78 of 2014 are disposed of. The Fine amount with regard to A1, A4 and A5 shall stands unaltered and the fine amount imposed against A2 is modified as stated above. The sentence of imprisonment shall run concurrently. The period of imprisonment already undergone is ordered to be set off. The sentence in default of fine shall run consecutively. The trial Court is directed to secure the custody of A1, A2 A4 and A5 and send them to the prison to undergo remaining portion of sentence modified by this Court.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bsm

To
1. The XI Additional Sessions, Judge,
City Civil Court, Chennai.

2. The Inspector of Police,
SPE, CBI, ACB, Chennai.
(R.C.No. 8(E)/2002-CBI/EOW/Chennai)

3. mr.k.srinivasan,
special public prosecutor for CBI Cases.
High Court Madras 104.

4. The Section Officer,
Criminal Section, High Court, Madras.

+2cc to Mr.S.SARAVANA KUMAR, Advocate, S.R.No.
+2cc to Mr.V.KRISHNA KUMAR, Advocate, S.R.No.86073
+1cc to Mr.S.ANBALAGAN, Advocate, S.R.No. 86104
+1cc to Mr.R.JOHN SATHYAN, Advocate, S.R.No. 85965
+1cc to Mr.K.SANKAR Advocate, S.R.No. 85961

Judgment made in
CRL.A.Nos.78 of 2014
715, 742, 750 and 756 of 2013

GMR(CO)
TR(19/02/2018)